

## THE POLITICS OF VIRTUAL FATWA COUNSELING IN THE 21<sup>ST</sup> CENTURY\*

by

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*A multitude of fatwa services sprung up on the Internet during the last few years and has grown since. One finds askimam.org, islamicity.com, islamonline.net, and islamqa.com among them. Yet it is not only these private Muslim jurisconsults who maintain websites, but also government-affiliated muftis and agencies have increasingly established an online presence. At the same time the private online muftis are not a monolithic group themselves. Therefore this paper sheds some light on the different actors and their competition. Who are they? And, more importantly still, which norms do they set? This paper argues that there is a competition between these fatwa services for the conclusive authority of Islamic legal interpretations and their creators over the minds of Muslims situated in non-Muslim political discourse spheres. Within the context of the norm-setting processes these online fatwas have the potential to influence and shape Muslims' opinions especially in predominantly non-Muslim societies. So how do the norms presented relate to existing norms there? Examples of where the Muslim authorities position themselves when it comes to contested or topical issues like migration and integration into the states of Western Europe will be provided. The research is initially based on a quantitative content analysis regarding these questions. None-theless it shall be supported by a theoretical framework including the notion of Peter Mandaville's (2001) "modes of translocality".*

### KEYWORDS

*Online fatwas, authority, migration, integration, Saudi Arabia, Egypt*

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\* This paper is the revised version of the presentation given to the VI. International Conference Cyberspace 2008 in Brno on November 29, 2008 including additional footnotes and comments. The author thanks Vít Šisler and Jörn Thielmann for their helpful comments on the manuscript.

It was partially supported by the research project "GA UK 125408" financed by the Grant Agency of Charles University in Prague.

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## 1. INTRODUCTION

In Saudi Arabia the then-chairman of the Supreme Council of the Judiciary announced that he would like to see satellite channel owners executed after proper litigation.<sup>1</sup> A private mufti in the kingdom was quoted to the effect that he would prefer Mickey Mouse to be killed along with other mice.<sup>2</sup> Egyptian and Turkish clerics backed a Saudi Arabian ruling allowing women to beat their husbands.<sup>3</sup> And in Morocco a fatwa, i.e. a religious legal opinion, by a Salafi sheikh was published permitting the wedding of a nine-year-old girl.<sup>4</sup> From the Ocean to the Gulf – to quote the slogan of Arab nationalism – these are only the most recent incidents in a series of confusing fatwa cases which stirred up public emotion. Some of them were even mentioned in the international press and possibly did not contribute to a better understanding of Islam abroad.

This paper argues that the publication of these and several other confusing Islamic legal opinions in the last few years is only the visible expression of a deeper rift, a real competition between and among government-affiliated fatwa authorities and private muftis who make their voices heard through the Internet and satellite television. It is not only a struggle for publicity, but a meaningful attempt to find a place for Islam in the post-9/11 world – especially in non-Muslim majority societies like those of Western Europe.

The Internet has provided the means for formerly marginalized currents to articulate their opinions online. A greater variety and plurality of opin-

<sup>1</sup> His position made Sālih al-Luhaydān the Chief Justice of Saudi Arabia. (He was replaced in February 2009 as part of a greater government reshuffle by King Abdullah. See e.g. "King Abdullah Conducts Major Cabinet Reshuffle" 2009.) A recording of the sheikh's fatwa can be found online at thumarm 2008. There he rules that "if those calling for corrupting minds and actions are not prevented from their evil-doing except by killing [them], it is permissible to sentence them to death" (author's translation) – provided the radio recording is original. The text is, for instance, quoted in al-'Uraymī 2008.

It is interesting to note that the Saudi Arabian Ministry of Foreign Affairs only released al-Luhaydān's apologetic explanation of the circumstances on its English and not on its Arabic website. One might rather think to learn more about media processes than about actual contents.

<sup>2</sup> The original fatwa can be accessed online at Al-Munajjid, M. S. 2008, "What Ruling on killing mice and rats, and a comment on the character Mickey Mouse", <http://www.islam-qa.com/en/ref/2896> [Accessed 15 Mar 2009]. Again the case serves much better to reveal media distortions than some allegedly insane fatwa counselling.

Note that fatwa links are not provided in the works cited. Except for islamcity.com, where fatwas can be searched for with their respective numbers, and alifta.com, where the links include long, confusing rows of coded Arabic characters, all other sites will be indicated with detailed URLs.

<sup>3</sup> The case will be highlighted in chapter 3.

<sup>4</sup> The case was in fact not recent by the time it gained such popularity in late 2008. It might have been a government plot aimed against the conservative Salafi organization represented by the sheikh Muhammad al-Maghrawī because he was quoted to be "known for [causing] unrest and confusion". The only official body authorized to give fatwas in Morocco is al-Majlis al-'Ilmī al-A'lā (Hammūsh 2008).

ions otherwise unknown and/or suppressed is aired. The same is true for TV muftis and preachers.<sup>5</sup> One must only think of popular media stars such as ‘Amr Khālid. They attract huge audiences especially among the disillusioned youth in Arab countries who are frustrated at corrupt government apparatus with little or no options for political participation. Instead ‘Amr Khālid, for instance, brought to life a Muslim youth organization which adapts Islam to today’s needs and propels the desired social change. Organizations like his “sometimes mix traditional practices and norms with entirely new religious interpretations and secular values, constructing and re-constructing Islam according to the social and intellectual environments in which they move.”<sup>6</sup> They are not restricted to the Arab world, but have inspired Muslims in Western Europe, too.<sup>7</sup> Whereas the individual preachers and muftis are mainly bound by their target group and hence generally more flexible to speak out,<sup>8</sup> government officials are subject to directives and international considerations, both of which do not always have the favor of the people. So, who are the agenda setters? Which norms are they trying to make accepted? And how do these norms relate to existing norms in countries like, for instance, Germany?

In order to gain a better understanding of the background of these questions it is helpful to give a brief definition of authority before turning to a case study of fatwas related to migration and integration which fit well into Peter Mandaville’s and Edward Said’s framework of traveling theory. Authority can be defined “[a]s legitimate power to require and receive submission and obedience.”<sup>9</sup> The term *auctoritas* is derived from the Roman law and in the following denotes the respect and dignity people attribute to a juristic or natural person and their representatives. In contrast to the concept of *potestas*, *auctoritas* does not necessarily entail real commanding power.<sup>10</sup> This is important to keep in mind because fatwas are non-binding legal opinions. And the mufti being the theoretically qualified issuer of fatwas cannot enforce his decision except on the grounds of his or her authority vis-à-vis the questioner. In this sense also the lay preachers are authorit-

<sup>5</sup> Cf. Richter 2007, p. 72.

<sup>6</sup> Sparre & Petersen 2007, p. 8.

<sup>7</sup> See e.g. for Germany <http://www.lifemakers-germany.de/Main.html> or for the Netherlands Khaled, A. 2005, *Soenaa’ al-Hajah. Maak iets van je leven*, Uitgeverij Noer, Delft.

<sup>8</sup> It is better to use the term “flexibility” and not “freedom” because the latter term as part of political liberalism implies the absence of censorship and self-imposed taboos or “red lines”. Instead private actors identify and appropriate their free space differently from state actors.

<sup>9</sup> Waida 1987, p. 1.

<sup>10</sup> Dietrich 1982, p. 83. Cf. also Omar 2007, p. 97.

ies even though they do not have the specified Islamic training and education for *iftā'*.<sup>11</sup>

In the following this paper maintains that this idea of authority in Islam has been in crisis for the last few years with the increasing presence of more or less authoritative online fatwa services to which Muslims in non-Muslim majority societies tend to turn for their guidance. For example, in an interview with the pan-Arab daily *Asharq Al-Awsat*<sup>12</sup> he gave in July 2006, 'Abd al-Muhsin al-'Ubaykān, a prominent member of the Saudi Arabian *Shūrā* Council, the consultative national assembly, acknowledged a "lack of communication between experienced religious scholars and the public" and the latter's cynical approach to several fatwas. al-'Ubaykān saw the reason for this in some people's "bad manners" and the tarnished image of senior scholars. Consequent to their deteriorated reputation, the public started to seek advice from inexperienced students instead of the competent scholars.<sup>13</sup> He did not go into detail, unfortunately, as to why their reputation is tarnished.

In fact, it may not be coincidental that two of the most prominent scholars who represent the state and the private *iftā'* (fatwa counseling) sides were interviewed by *Asharq Al-Awsat* within two days in the fall of 2008. The TV and online mufti Yūsuf al-Qaradāwī defended his innovating and facilitating approach to *iftā'*.<sup>14</sup> Two days later the Saudi Arabian grand mufti 'Abd al-'Azīz Āl ash-Shaykh seemed to disagree with this view stating that "it is a disaster and a calamity when a person issues abnormal fatwas [...] claiming that he wants to simplify matters". However, he did not oppose private muftis in general, only those who are little qualified and appear on some satellite channels which compete for sensational fatwas.<sup>15</sup>

## 2. STATE OF RESEARCH

When it comes to the examination of state muftis and Islamic authority especially the works of Līnā al-Humsī (1996) and Jakob Skovgaard-Petersen (2004, 2005) are worth mentioning. Both of them have described the development of government-affiliated *iftā'* in Syria and Egypt, respectively, as well as in other Arab countries. Early on al-Humsī offered suggestions on how to adapt fatwa counseling to the 21st century on the basis of her empirical research. Skovgaard-Petersen provided a typology of state muftis which

<sup>11</sup> Such is the case for 'Amr Khālid (Wise 2004).

<sup>12</sup> This is the English title of this newspaper. Its Arabic issues will be transliterated like other Arabic terms. Quotations will be left as in the original texts.

<sup>13</sup> al Saleh 2006.

<sup>14</sup> al Kinani 2008.

<sup>15</sup> Al-Saheil 2008.

is useful to sketch a frame in order to show how their institutions have changed.

After all, this change is also due to the availability of the Internet. Dale F. Eickelman and Jon W. Anderson (2003) emphasized the potential of the new communication medium for a new Muslim public that can challenge established authorities. Yet also the latter have meanwhile used the Internet for their purposes. Anderson extended the framework for a techno-practical theory to diaspora Muslims and the community of believers (umma) in general. This is noteworthy with regard to the new 'ulamā'.<sup>16</sup> Gary Bunt (2003) has gone into detail with depictions of some of their websites and situated online fatwas from there in their respective contexts. As this paper is, however, largely based on fairly recent developments, it makes much use of newspaper articles, too, and can therefore try to show only some tendencies.

### 3. THE RELEVANCE OF FATWAS

Perhaps the looming competition is better understood if one looks at the practical orientation of fatwas which thus reflect a close proximity to real-life circumstances. Or as the German jurist and expert on Islamic law Hilmar Krüger put it: "Law in the books is definitively not law in action!" He, by the way, also noted an increased media presence of state religion as far back as 1998.<sup>17</sup> In the same vein Līnā al-Humsī opines that muftis are attached to life and practice because their fatwas and their general activities are closely related to each other.<sup>18</sup> Concerning state muftis this may be somewhat misleading as they have but their government jobs. Yet one may assume that they would be trained in certain legal specifications like, for example, economic or family matters.

Another important development is the mass media communication of fatwas which links to their practical orientation. Whereas fatwas historically used to reply to questions in a relatively unique and particular situation,<sup>19</sup> they are now much more widespread and may therefore even be doctrinal in nature.<sup>20</sup> Therefore they are not only about individual cases anymore, but about fundamental issues such as questions regarding the integration of Muslims into predominantly non-Muslim societies.

A word has to be said about the permissibility of the Internet. There are in fact fatwas discussing the matter. They would usually allow its use because it is considered to be more helpful than harmful. In this respect it is

<sup>16</sup> Anderson 2004, p. 50.

<sup>17</sup> Krüger 1998, p. 385.

<sup>18</sup> al-Humsī 1417/1996, pp. 24 and 223.

<sup>19</sup> Cf. Messick 1995, p. 11.

<sup>20</sup> Eickelman & Anderson 2003, p. 13.

treated like any other tool that may be used for virtuous (mustahabb) and forbidden (harām) actions alike.<sup>21</sup>

#### 4. PRIVATE MUFTIS VS. STATE MUFTIS

The husband-beating fatwas provide an example of one offline discourse between scholars of various backgrounds and reveal their interdependence. From the sources it seems that a Saudi Arabian fatwa was first, but this is not entirely clear. In this case the above mentioned Saudi scholar al-'Ubaykān acknowledged the right of women backed by Islamic law to defend themselves against violence. Although he is a politician, his opinion must not be mistaken to represent government policies. At the same time one must be aware of the potential impact such an announcement by a public figure nevertheless has. His opinion was supported by the Turkish preacher, religious leader, and media entrepreneur Fethullah Gülen and the head of the semi-official Fatwa Committee at al-Azhar University 'Abd al-Hamīd al-Atrash.<sup>22</sup> The former even allowed the return of "two blows for each one received"<sup>23</sup> and emphasized the need for women to learn martial arts.<sup>24</sup>

A few days later a concerned female user inquired about these fatwas and their background at islamonline.net. Two scholars answered her questions. The Texas based mufti Muhammad al-Mukhtār ash-Shinqīti<sup>25</sup> agreed with them because not only are men prohibited from beating their wives in the first place, but also everyone has the right to proportionate self-defense. However, peaceful conflict resolution should by all means prevail. On the other hand the Saudi educated Egyptian mufti 'Abd al-Khāliq Hasan ash-Sharīf<sup>26</sup> stressed love and affection at home and pointed to the general scope of the fatwas as they could not take specific situations into account. He blamed the media for a spread of moral corruption and preferred a more positive approach to strengthening marital relations.<sup>27</sup>

<sup>21</sup> Cf. e.g. fatwas no. 492 (20 Jan. 1997) and 1474 (17 Jun. 1997) at <http://www.islamicity.com/qa> [Accessed 15 Mar 2009].

<sup>22</sup> al-Buhayrī 2008b. The fact that the official grand mufti of Egypt is often appointed shaykh al-Azhar after his tenure illustrates the dual nature of al-Azhar University as quasi-independent and governmental institution of Islamic learning and Sunni doctrine (Skovgaard-Petersen 2004, p. 92).

<sup>23</sup> "Egypt sheikh backs women's right to beat husbands" 2008. It is interesting to note that the article is no longer available.

<sup>24</sup> "Fatwa Gives Women the Right to Hit Husbands." 2008.

<sup>25</sup> See about him "Mohamed El-Moctar El-Shinqiti" no date.

<sup>26</sup> See about him "Abdel Khaliq Hasan Ash-Shareef" no date.

<sup>27</sup> Ash-Shareef, 'A. K. H. & El-Moctar El-Shinqiti, M. 2008, "Husband-beating Fatwas: Shaking the Family Unit?", 30 Oct., [http://www.islamonline.net/servlet/Satellite?cid=1225200822327&pagename=IslamOnline-English-Ask\\_Scholar%2FFatwaE%2FFatwaE-AskTheScholar](http://www.islamonline.net/servlet/Satellite?cid=1225200822327&pagename=IslamOnline-English-Ask_Scholar%2FFatwaE%2FFatwaE-AskTheScholar) [Accessed 15 Mar 2009].

A closer look at the different actors shows the struggle between all of them regardless of their affiliations. Four private websites and two government-sponsored portals are compared: askimam.org, islamicity.com, islamonline.net, and islamqa.com on the one hand as well as on the other hand the online presence of the Egyptian (dar-alifta.org) and Saudi Arabian (alifta.com) iftā' offices.

The multilingual site islamqa.com is run by the Saudi based mufti Muhammad Sālih al-Munajjid. Its English and Arabic sections are mostly synchronized even though several fatwa translations are at least questionable.<sup>28</sup> It is interesting to note that this site is the only one of the four private websites that used to load in Arabic by default. This may lead one to conclude that it has a rather conservative orientation. If conservatism is furthermore viewed as the mufti's disapproval of the contact with non-Muslims,<sup>29</sup> which can easily be prevented by speaking Arabic, al-Munajjid's Mickey Mouse fatwa of September 2008 further backs this argument. In the end he claims that

*"we find it very strange that the foolish people in the west seek to make their children like mice and rats by propagating the character of Mickey Mouse in games, comics and funfairs."*<sup>30</sup>

Pretty much the same is true for askimam.org. After looking at some fatwas from the category "Society and Culture" one gets the sense of a conservative view supporting counter-societal developments. The fatwas are usually issued by the South African mufti Ebrahim Desai,<sup>31</sup> who belongs to a Deobandi school of thought from India, where over 40 percent of South Africa's Muslims come from.<sup>32</sup> This only makes visible that a mufti is a product of his environment – be it geographical or even more so ideological and educational. One might argue that until the end of the apartheid regime South Africa formally maintained an environment opposed to integration. However, this does not necessarily mean that South African muftis are generally conservative. Instead, upbringing and indoctrination are essential to their professional development, too.

<sup>28</sup> Cf. e.g. Kutscher 2009, p. 146.

<sup>29</sup> For a more detailed definition of conservative/traditionalist opinions and a comparison with liberal/reformist approaches to Islamic law see Kutscher 2008, pp. 5 f.

<sup>30</sup> Al-Munajjid, M. S. 2008, "What Ruling on killing mice and rats, and a comment on the character Mickey Mouse", <http://www.islam-qa.com/en/ref/2896> [Accessed 15 Mar 2009].

<sup>31</sup> About him AskImam no date.

<sup>32</sup> Omar 2004, table 1, p. 2.

While askimam.org operates from a minority context,<sup>33</sup> islamonline.net has its headquarters in Cairo. It is one of the initiatives of the aforementioned Egyptian sheikh Yūsuf al-Qaradāwī, who is also the most prominent host on al-Jazeera's live fatwa TV show "Islamic Law and Life" (ash-Sharī'a wa 'l-Hayāh). By the way, programs like these also contribute to a fast, easy, and inexpensive "virtual" access to the home countries of immigrated Muslims. They include the Lebanese TV channel al-Manār as well as the Saudi Arabian Iqra', both of which attract foremost a "religio-conservative" audience.<sup>34</sup>

In contrast to the usually concise fatwas from askimam.org, one finds rather extensive fatwas at islamonline.net – often with concrete reference to the Prophetic traditions (ahādīth) and other sources. The site's English iftā' activity has decreased, though. Whereas there used to be two to four questions every day in 2007, there were a mere 35 between January 1 and March 15, 2009.

Finally, the California based site islamicity.com displays a question-and-answer section. The fatwas appear to be issued by different muftis or boards. Not only do they sometimes refer to the Saudi Arabian English language daily Arab News, which has its own fatwa pages, but also to "Dr. Dani Doueiri and Imam Team".<sup>35</sup> Unfortunately, neither the questioner nor the mufti can usually be recognized beyond this general reference although islamicity.com disclaims endorsement of the published fatwas.<sup>36</sup> In the end, nobody is responsible.

Together these four sites have accumulated more than 24,000 online fatwas in their archives since the first of them went online in 1995. By contrast, the government websites were launched or reconstructed only recently in 2007. The online presence of the Egyptian Dār al-Iftā', however, goes at least back to 2001. Yet according to Matthias Brückner its archive comprised only 300 fatwas back then.<sup>37</sup> So, for the time being both rely heavily on digitalized fatwa collections and not (yet) on online inquiries to the same extent as the private muftis. However, their potential lies in the long history of iftā' and wider contact possibilities as their facilities may be reached by mail or phone, too. Their most prominent representatives are the respective grand muftis, sheikhs 'Alī Jum'ah of Egypt and the aforementioned sheikh 'Abd al-'Azīz Āl ash-Shaykh of Saudi Arabia.

<sup>33</sup> For the distinction between minority and majority contexts see Bunt 2003, p. 138.

<sup>34</sup> Al-Hamarneh 2004, p. 451.

<sup>35</sup> "Scholars who may answer your questions" no date.

<sup>36</sup> "Important Notice" no date.

<sup>37</sup> Brückner 2001.



Government offices for *iftā'* are comparatively late institutions. The oldest is probably the office of the Ottoman Şeyhülislam (shaykh al-islām), which was established in the 15th century, eight-hundred years after the death of the prophet Muhammad.<sup>38</sup> It is accepted that *iftā'* was not meant to be state-run, but that it used to be a private affair prior to the establishment of such offices and institutions. Different opinions were indeed desired as reads sura 5:48: "If God had willed, He would have made you a single umma". Yet in his interview with Asharq Al-Awsat the Saudi Arabian grand mufti implicitly stated that he did not wish for a plurality of opinions nowadays if they pertain to "dangerous" matters. He deplored the competition between some satellite TV channels over sensational fatwas by unqualified individuals who are probably "exploited" as figure-heads.<sup>39</sup>

Another quite recent case of competition between a government-sponsored institution and a seemingly private *iftā'* initiative is that of the Jabhat 'Ulamā' al-Azhar. It serves well to show that official Islam is really struggling for attention and conclusive authority. The adversary is the Islamic Research Council at al-Azhar University, to many believers the highest authority in Sunni Islam. After the Jabhah's official dissolution in 1999 its muftis resumed their activities in mid-2008 with an *online* presence only. Essentially, they used to confront opinions from the Dār al-Iftā'.<sup>40</sup>

## 5. EXAMPLES OF NORM-SETTING WITH REGARD TO MIGRATION AND INTEGRATION FATWAS

One of the contested issues between the Dār al-Iftā', the Jabhah, and other scholars was the opinion which denied shipwrecked illegal migrants the status of martyrs. It was in November 2007 that the Egyptian grand mufti 'Alī Jum'ah refused to elevate Muslim refugees who had drowned near the Italian coast to the status of martyrs. According to him they had not been on the path of God, but (1) endangered themselves (2) illegally and (3) greedily, all of which is un-Islamic.<sup>41</sup> Though his statement was not a fatwa in the narrow sense, his opinion carries weight.

Jum'ah triggered controversy throughout the Arab world. It had been widely accepted among Muslim scholars including himself that those who are killed in an accident die as martyrs. This stance was reaffirmed by sheikh 'Abd al-Hamīd al-Atrash of al-Azhar's Fatwa Committee "because

<sup>38</sup> Kaydu 1972, pp. 19 f. Cf. also Skovgaard-Petersen 2005, p. 275, and Krüger 1978, pp. 42 ff., both of whom note the increased institutionalization of the *iftā'* in the Ottoman empire compared to previous Islamic states.

<sup>39</sup> Al-Saheil 2008.

<sup>40</sup> Hāmid 2008.

<sup>41</sup> "Mufti Misr: al-muhājirūn al-ladhīna gharaqū amāma sawāhil Ṭālīyā laysū shuhadā'" 2007.

God told us to travel the world in search of a living". Jum'ah countered that anyone who can afford to pay the equivalent of about 4,000 euros to human traffickers is not poor and should start a business instead of migrating.<sup>42</sup> A Moroccan imam and Member of Parliament, 'Abd al-Bārī Zamzamī, also disputed Jum'ah's view and supported al-Atrash.<sup>43</sup> In the end, the al-Azhar muftis considered the refugees as martyrs adding with reservation that everyone who wants to emigrate should do so law-abidingly.<sup>44</sup>

The limits within which these government-sponsored institutions make their decisions demonstrate just how political their task may in fact be or at least be regarded by the public. After speculation that Jum'ah's fatwa seemed to be of a clearly political nature,<sup>45</sup> he had to declare that neither the Dār al-Iftā' nor the Fatwa Committee were pressured into politically motivated decisions.<sup>46</sup>

In more general terms, some of the fatwas can leave the reader with the impression that migration and integration of Muslims into Europe may actually mean assimilation – from the Muslim side. Assimilation is the complete absorption and adoption of the value standards and behavioral patterns including a change of consciousness of the assimilated group.<sup>47</sup> So what do the online muftis have to say about assimilation? Some regard the matter quite balanced. Confronted with prophetic examples of leaving non-Muslim lands the muftis at islamicity.com stated that

*"the Islamic community has grown so much that it is too late to let Muslim converts migrate. [...] the challenge is no longer to migrate, but to spread Islam as fast as possible in the correct manner."*<sup>48</sup>

And the chairman of the Fiqh Council of North America Muzammil Siddiqi<sup>49</sup> conceded that, in order to reconcile practicing one's faith with one's loyalty to the United States in this case,

*"[w]e have to introduce ourselves, our Islamic values and principles and we have to participate fully in this society for the sake of peace, harmony, good will and good community, not only for ourselves but for all Americans."*<sup>50</sup>

<sup>42</sup> Salem 2007.

<sup>43</sup> "Zemzmi. La fatwa de trop" 2007.

<sup>44</sup> "Al-Azhar insists drowned Egyptians were martyrs" 2007.

<sup>45</sup> Cf. "Zemzmi. La fatwa de trop" 2007.

<sup>46</sup> "Al-Azhar insists drowned Egyptians were martyrs" 2007.

<sup>47</sup> Hillmann 2007, p. 53. About assimilation with a slightly different labeling in English cf. e.g. Alba 1992, pp. 576 ff.

<sup>48</sup> Fatwa no. 1335 (28 May 1997) at <http://www.islamicity.com/qa> [Accessed 15 Jan 2009].

<sup>49</sup> See about him e.g. Tucker 2007, pp. 582-3.

Yet on the other hand one reads at islam-qa.com that “one of the beauties of our wise sharee’ah is that it forbids the Muslim to settle in the kaafir lands.”<sup>51</sup> “Kaafir” – meaning “infidel” – is a term that al-Munajjid frequently uses. He argues that the Quran asks in sura 4:97: “Was not God’s earth wide [enough] for you to emigrate therein?” However, if one expects his or her residence in the non-Muslim country to be more helpful to the Islamic cause by calling others to Islam or counseling and leading people while at the same time being firm in religious questions, then staying is deemed better than migrating.<sup>52</sup>

Statements like these cause fear among many Germans and Europeans, which should not be denied. The Republicans (REP), a German right-wing xenophobic political party, for instance, exploited this fact in their campaign for the Hesse state election of 2009. On their election posters they urged voters to “stop Islamization” so that people will be free to “celebrate Christmas in the future”.<sup>53</sup> Across the border, Swiss right-wing parliamentarians stoked the fear of Islamization in their debate on March 4, 2009 over banning minarets. In the end the people’s initiative, which had received the support of about 2 percent of the eligible voters, was rejected.<sup>54</sup> But the tendency is clear: It is a small step from “Islamization” to “proselytization”. From a purely legal perspective missionary work is protected by article 4 of the German constitution and article 15 of the Swiss constitution, both of which stipulate the freedom of belief and conscience. Everyone may convert to Islam – or not.

Then again muftis warn against the assimilation into non-Islamic customs like Halloween because their adoption might “eliminate a Muslim’s identity”.<sup>55</sup> Or the muftis ask Muslims to guard themselves against using a language different from Arabic, which helps shape their Muslim identity.<sup>56</sup>

<sup>50</sup> Siddiqi, M. 2006, “American Muslims: Faithful and Active Citizens”, 2 Nov., [http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask\\_Scholar/FatwaE&cid=1119503545418](http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE&cid=1119503545418) [Accessed 15 Mar 2009]. The question must have been redated as it had already been online on June 2, 2004. Due to its political content the fatwa “update” could have coincided with the U.S. midterm elections a few days later.

<sup>51</sup> Islam Q&A (ed.) no date, “Should he travel to kaafir countries or work in a tourist resort?”, <http://islam-qa.com/en/ref/59897> [Accessed 15 Mar 2009].

<sup>52</sup> Cf. e.g. Islam Q&A (ed.) no date, “Is it obligatory for those who embrace Islam in kaafir lands to migrate (hijrah)?”, <http://islam-qa.com/en/ref/47672/> [Accessed 15 Mar 2009], and *ibid.* no date, “Can Muslims settle in kaafir countries for the sake of a better life?”, <http://islam-qa.com/en/ref/13363> [Accessed 15 Mar 2009].

<sup>53</sup> Author’s translation of the slogan on the election poster.

<sup>54</sup> Geiser, U. 2009. The debate is recorded in the official bulletin of the Swiss parliament available at [http://www.parlament.ch/ab/frameset/d/n/4807/290457/d\\_n\\_4807\\_290457\\_290626.htm](http://www.parlament.ch/ab/frameset/d/n/4807/290457/d_n_4807_290457_290626.htm) [15 Mar 2009].

<sup>55</sup> Ask Imam (ed.) 2000, “Is it haram to buy a Muslim child a costume for Halloween? I know that some Muslims do this already.”, 25 Oct., <http://askimam.org/fatwa/fatwa.php?askid=8150d01bd22cc6e5bcbe9ac90379c64b> [Accessed 15 Mar 2009].

It is a little more difficult to retrieve similar fatwas from the government institutions which are still largely in Arabic and therefore more difficult to access from computers abroad. One fatwa from the Egyptian Dār al-Iftā' shows a glimpse of the muftis' perception of non-Muslims. It deals with the division of the world into the land of Islam (dār al-islām), the land of disbelief (dār al-kufr), the land of war (dār al-harb), and the land of treaty (dār al-'ahd). And the mufti replies that one could not speak of "dār al-kufr" anymore nowadays. It is simply referred to as "the land of non-Muslims" ("diyār ghayr al-muslimīn").<sup>57</sup> This shows a conciliatory effort towards non-Muslims quite in contrast to al-Munajjid's continued use of "kuffaar" or "kaafir" instead of the neutral "non-Muslims".

It might not be surprising then that the Saudi Arabian iftā' presidency under sheikh 'Abd al-'Azīz ibn Bāz, who died in 1999 and whose fatwas feature prominently on the official website, approves of the same expression. One of his fatwas allows Muslims to migrate for labor to "the infidel states" ("ad-duwal al-kāfira") provided that their faith is not in danger of confusion (fitna).<sup>58</sup> In another legal opinion the presidency disapproves of identifying a Muslim with a certain nationality if this leads to his or her contempt for foreign fellow-Muslims.<sup>59</sup> These fatwas are undated although they must have been released between 1994 and 1999 when Ibn Bāz was grand mufti.

<sup>56</sup> 'Abdul-Khaliq, 'A. 2006, "Muslim Minorities & Language Assimilation Problem", 12 Sep., [http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask\\_Scholar/FatwaE/FatwaE&cid=1119503545562](http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503545562) [Accessed 15 Mar 2009].

<sup>57</sup> Amānat al-Fatwā (ed.) 2005, "Taqīm al-bilād ilā dār islām wa-kufr wa-harb wa-'ahd", 31 Oct., <http://dar-alifta.org/ViewFatwa.aspx?ID=5662> [Accessed 15 Mar 2009]. For a distinction between the different terms and the new terminology developing from within Islamic legal discourse see e.g. Shadid, W. & van Koningsveld, S. 1996, "Loyalty to a non-Muslim Government: An Analysis of Islamic Normative Discussions and of the Views of some Contemporary Islamicists" in *Political Participation and Identities of Muslims in non-Muslim States*, eds W. Shadid & S. van Koningsveld, Kok Pharos, Kampen, pp. 84-114, esp. pp. 92 ff.

<sup>58</sup> al-Lajnah ad-Dā'imah li 'l-buhūth al-'Ilmiyyah wa 'l-Iftā' no date, "Hal 'amal al-muslim fi ad-duwal al-kāfirah jā'iz, wa-hal min dhālika 'amal Yūsuf 'alayhi al-salāh wa 'l-salām?", <http://alifta.com/> → Fatāwā al-lajnah ad-dā'imah → Tasaffuh mawdū'i → ad-Da'wah al-islāmiyyah wa 'l-qadāyā al-mu'āsirah → qadāyā ad-da'wah al-islāmiyyah → Qadāyā al-hijrah wa 'l-jinsiyyah → 'Amal al-muslim fi ad-duwal al-kāfirah [Accessed 15 Mar 2009].

"Fitna", a term that the committee uses in this context, plays an important role in Islam as it goes back to the civil war between the companions of the fourth caliph 'Alī and their opponents. "Fitna" is also the title of a controversial film by the populist Dutch Member of Parliament Geert Wilders, who associates Islam with terrorism. In fact, it was the reason for the British Home Secretary to bar Wilders from entering the United Kingdom in order to preserve public order. For the same reason Yūsuf al-Qaradāwī had already been refused entry before ("Dutch MP refused entry to Britain" 2009).

<sup>59</sup> al-Lajnah ad-Dā'imah li 'l-buhūth al-'Ilmiyyah wa 'l-Iftā' no date, "Hal kawn al-insān aw al-mu'min yaqūlu (Anā watānī) harām? Hal kawn al-insān yatakallamu 'an as-siyāsah al-khārijiyyah aw ad-dākhiliyyah harām?", <http://alifta.com/> → Fatāwā al-lajnah ad-dā'imah → Tasaffuh mawdū'i → ad-Da'wah al-islāmiyyah wa 'l-qadāyā al-mu'āsirah → Hal kawn al-insān aw al-mu'min yaqūlu (Anā watānī) harām? [Accessed 15 Mar 2009].

## 6. A BRIEF NOTE ON TRAVELING THEORY

How do these findings relate to Mandaville's "modes of translocality" which he identified in his book, "Transnational Muslim Politics" (2001)? His refinement of Said's traveling theory ("The World, the Text and the Critic", 1984, 1991) seems appropriate as an explanation for the movement of these fatwas and the underlying themes and ideas from Muslim majority contexts to non-Muslim majority contexts. Traveling theory can be characterized by four stages, namely (1) the point of origin in space and time, (2) the act of traveling by means of the Internet (be it in the news or in actual online fatwas), (3) the process of negotiation between the migrants and (a) the natives as well as (b) those staying behind in terms of acceptance, rejection, or transformation, and, finally, (4) the emergence of new theories.<sup>60</sup> By applying this pattern to Islam one can speak of the jurisprudence of Muslim minorities (*fiqh al-aqalliyyāt*), which was first developed by French imams<sup>61</sup> as well as Yūsuf al-Qaradāwī in the 1990s.<sup>62</sup>

Yet the new theories may be contested as well. And this frequently happens. There are groups like TV muftis who manage to undermine genealogies of authority,<sup>63</sup> especially the authority of established 'ulamā' – a term which is very general and laden with meanings, but which most likely resembles the previous description of state muftis –, and claim their own discursive spaces. This is what makes the notion of traveling theory so attractive.

In the triangle of migrants, natives, and those staying behind special attention was given to the relationship between Muslim migrants and Muslims in predominantly Muslim countries like Egypt and Saudi Arabia. To some extent muftis there do not yet take realities into account, namely the fact that several million Muslims actually live and work in Europe and North America. Eventually, three options are conceivable. Muftis might either resort to the legal concept of necessity (*darūrah*), which implies that Muslims (1) stay and do missionary work (*da'wah*) so that their country of residence becomes part of the Muslim legal territory or (2) migrate to a Muslim environment. (3) Thirdly, muftis can continue to seek a "third way", a legal framework for Muslim minorities which is purpose oriented and open for integration.<sup>64</sup>

<sup>60</sup> Mandaville 2001, pp. 85 f.

<sup>61</sup> See e.g. Bencheikh, S. 1998, "Vers une théologie de la minorité", *Islam de France*, no. 1, pp. 62-64, and Oubrou, T. 1998, "Introduction théorique à la charī'a de minorité", *Islam de France*, no. 2, pp. 27-41.

<sup>62</sup> See his fatwa collection *Fiqh of Muslim Minorities. Contentious Issues & Recommended Solutions* (Cairo 1424/2003). For a brief survey cf. e.g. Rohe 2007, pp. 137 ff.

<sup>63</sup> Mandaville 2001, p. 88.

<sup>64</sup> Cf. also Kutscher 2008, pp. 5 f.

## 7. CONCLUSION

At the moment the disadvantages of the government-sponsored websites are their old archives and their ensuing lack of reaction to contemporary questions, a reaction that could be quick with the use of the Internet. Nevertheless, the governments' will to make use of the web is obvious as can be discerned from the relatively swift launch or relaunch of their websites. The state muftis still have vast resources at their hands and can mobilize public support even though they lack certain credibility in the eyes of the population because they are identified with government policies.<sup>65</sup> The satellite fatwa mentioned in the very beginning of this paper may only be the most notorious in this regard. However, the Egyptian minister of religious affairs reacted in a similar fashion when he called the "satellite missionaries" "corrupters" and affirmed that the government would continue to oppose "their strange fatwas" ("fatāwāhum al-gharībah") which contribute to offending and misinterpreting Islam and Muslims.<sup>66</sup>

Thus people have tended to turn away from state muftis.<sup>67</sup> They approach satellite preachers and private online muftis alike. The latter, on whom this paper has focused, can be divided roughly into two currents. On the one hand, there are representatives of Islam as on islamqa.com and askimam.org who consider non-Muslims as infidels and are at least skeptical when it comes to peaceful coexistence. Their honesty and openness is noteworthy, though, as they point out possible problems and limits of Muslim positions. On the other hand, many muftis on islamonline.net and islamicity.com present pragmatic solutions for living together in reality. Yet sometimes their opinions seem to be quite idealistic.<sup>68</sup>

In the end it is difficult to speak of "norms" because "normal" refers to a multitude of circumstances depending on the point of view. This is due to the rich diversity of Islamic law in general and fatwa services in particular – private and governmental. Making use of a medium as modern as the Internet does not necessarily make its user a modernist.

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<sup>65</sup> Cf. e.g. Skovgaard-Petersen 2004, esp. p. 95.

<sup>66</sup> Al-Buhayrī 2008a.

<sup>67</sup> Skovgaard-Petersen 2004, pp. 87 and 91.

<sup>68</sup> Cf. Kutscher 2009, p. 151, where the same is shown for questions about another political issue: jihad.

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